

ATTORNEY DOCKET NO. 21108.0060U4  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of )  
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 Coleman, Paul D. et al. ) Art Unit: 1636  
 )  
 Application No. 10/821,653 ) Examiner: Dunston, Jennifer Ann  
 )  
 Filing Date: April 4, 2004 ) Confirmation No. 8802  
 )  
 For: MOLECULAR MARKERS FOR THE )  
 DIAGNOSIS OF ALZHEIMER'S DISEASE )

**PETITION UNDER 37 C.F.R. § 1.78(a)(3)**

MAIL STOP PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & Rosenberg, P.C.  
Customer No. 23859

Sir:

Applicants petition the Director to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e) and 35 U.S.C. 120. As required by 37 C.F.R. § 1.78(a)(3), provided with this petition are:

- (1) an amendment to the specification inserting the reference to the prior applications under 35 U.S.C. 119(e) and 35 U.S.C. 120,
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

Applicants for above-indicated patent application unintentionally failed to properly claim the benefit of priority to earlier-filed patent applications. However, the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim is being filed was unintentional.

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Specifically, Applicants note that at the time the present application was filed, April 4, 2004, a priority claim was made in a preliminary amendment. However, two errors were made in this amendment. First, it stated that the application is a “continuation of U.S. Serial No. 09/178,170, filed January 25, 2001, which is a continuation of U.S. Serial No. 09/178,170, filed October 24, 1998...” rather than identifying it as a “continuation-in-part of U.S. Serial No. 09/770,534 filed January 25, 2001, which is a continuation of U.S. Serial No. 09/178,170, filed October 24, 1998...” Second, this reference was not inserted as the first sentence but rather as the second paragraph.

On December 23, 2004, the Applicants filed a request for a corrected official filing receipt, requesting that the domestic priority claim be amended to state that the application is a continuation-in-part of U.S. Application No. 09/770,534, which is a continuation of U.S. Application No. 09/178,170, which claims the benefit of U.S. Serial No. 60/063,274 and U.S. Serial No. 60/179,214. It is noted that this change was in fact reflected on both the updated filing receipt and the published application.

In the Office action mailed January 11, 2007, the Examiner noted that the priority claim was not listed as the first sentence of the specification and is therefore not in compliance with 37 CFR 1.78(a)(2)(iii).

Applicants submit that the entire delay between the date the claim was due and the date the claim is being filed was unintentional as is evident from the Applicants attempts to claim priority in the preliminary amendment filed concurrent with the application and the request for a corrected official filing receipt filed on December 23, 2004. Applicants further submit that, as evidenced by updated filing receipt and published application, there was a good-faith belief that the priority claim was accepted by the Office. It is, therefore, requested that the following amendment and proper claim to priority be accepted to correct the evident errors on the part of the Applicants’ representative.

Payment in the amount of \$1,370.00 (\$1,370.00 under 37 C.F.R. § 1.17(t) the fee for a Petition to Correct a Priority Claim under 37 C.F.R. § 1.78(a)(3)(ii)) and an amendment to the specification to correct the priority claim are enclosed. It is believed that no additional fee is required with this submission. However, should a fee be required, the Commissioner is hereby

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authorized to charge any additional amount or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

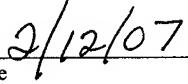
  
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**CERTIFICATE OF EFS-WEB TRANSMISSION UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence, including any items indicated as attached or included, is being transmitted by EFS-WEB on the date indicated below.

  
\_\_\_\_\_  
P. Brian Giles, Ph.D.

  
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Date